

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

LATORY MARFRIA RHINES,

Petitioner,

v.

CIVIL ACTION NO. 1:16-01313

UNITED STATES OF AMERICA,

Respondent.

MEMORANDUM OPINION AND ORDER

Pending before the court is petitioner's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. ECF No. 1. By Standing Order, the matter was referred to United States Magistrate Judge Dwane L. Tinsley for submission of proposed findings and recommendations ("PF&R") for disposition pursuant to 28 U.S.C. § 636(b)(1)(B). On June 11, 2018, the magistrate judge submitted his PF&R, in which he recommended that the district court dismiss this action and remove the matter from the court's docket. ECF No. 8.

In accordance with the provisions of 28 U.S.C. § 636(b), petitioner was allotted fourteen days, plus three mailing days, in which to file any objections to Magistrate Judge Tinsley's Findings and Recommendation. The failure to file such objections constitutes a waiver of the right to a de novo review

by this court. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989).

Neither party has filed any objections to the PF&R within the seventeen-day period. Accordingly, having reviewed the PF&R, the court hereby adopts the factual and legal analysis contained therein, as follows:

1. Petitioner's petition for a writ of habeas corpus is **DISMISSED** for failure to prosecute pursuant to Rule 41(b) of the Federal Rules of Civil Procedure, (ECF No. 1); and
2. The Clerk is **DIRECTED** to remove this case from the court's active docket.

Additionally, the court has considered whether to grant a certificate of appealability. See 28 U.S.C. § 2253(c). A certificate will not be granted unless there is "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). The standard is satisfied only upon a showing that reasonable jurists would find that any assessment of the constitutional claims by this court is debatable or wrong and that any dispositive procedural ruling is likewise debatable. Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683-84 (4th Cir. 2001). The court concludes that the governing standard is not satisfied in this instance. Accordingly, the court **DENIES** a certificate of appealability.

The Clerk is further directed to forward a copy of this Memorandum Opinion and Order to counsel of record and petitioner, pro se.

It is **SO ORDERED** this 5th day of September, 2018.

ENTER:

A handwritten signature in cursive script, reading "David A. Faber", is written over a horizontal line.

David A. Faber

Senior United States District Judge